

STATE OF MICHIGAN  
COURT OF APPEALS

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In the Matter of LAMONTE BROWN,  
DAVONTE BROWN, ASHANTII BUTLER, and  
BRIANNE ALIYAH LASHAY BUTLER, Minors.

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FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

SHAQANDA BROWN,

Respondent-Appellant,

and

DENNIS BUTLER,

Respondent.

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UNPUBLISHED

July 19, 2005

No. 258968

Genesee Circuit Court

Family Division

LC No. 01-114701-NA

Before: Neff, P.J., Smolenski and Talbot, JJ.

PER CURIAM.

Respondent-appellant Shaqanda Brown (“respondent”) appeals as of right from the trial court’s order terminating her parental rights to the minor children pursuant to MCL 712A.19b(3)(c)(i), (g), and (j). We affirm.

Respondent argues that the trial court denied her a fair trial when it refused to allow one witness, Jane Nealy, to testify, and limited the direct examination testimony of two other witnesses, Charmaine Granberry and Juanita Chavez, to ten minutes each. All witnesses were caseworkers for petitioner who supervised respondent’s visits with her children.

Respondent objected below to the exclusion of Nealy’s testimony. A trial court’s decision to allow testimony by a nonendorsed witness is reviewed for an abuse of discretion. *People v McLaughlin*, 258 Mich App 635, 657; 672 NW2d 860 (2003). But because respondent did not object to the time limitations placed on Granberry’s and Chavez’s testimony, we review this latter issue for plain error affecting respondent’s substantial rights. *People v Carines*, 460 Mich 750, 763-764; 597 NW2d 130 (1999).

MCR 3.922(D) states that, unless the subchapter provides otherwise, the scope and effect of pretrial hearings in juvenile proceedings are governed by MCR 2.401. No rule in subchapter 3.900 deals with witness lists. MCR 2.401(I) provides that parties must file their witness lists no later than the time specified by the trial court. In this case, at the close of the September 9, 2004, review hearing, the trial court instructed the parties to file their witness lists no later than one week before the October 8, 2004, trial. Respondent's counsel admitted that he did not file a written witness list and verbally informed only the prosecutor that he intended to call Nealy. The attorney for the minor children was never notified of respondent's intent to call Nealy. Also, by counsel's own admission, he discovered the witnesses' names one week before the trial. On this basis alone, the trial court was justified in excluding the testimony of all three witnesses. However, the trial court only excluded Nealy's testimony, which we conclude was not an abuse of discretion. In addition to improperly noticing only one party, Nealy was present in the courtroom during the entire trial despite the trial court's sequestration order.

Moreover, all three caseworkers who testified, two on respondent's behalf, opined that they would be concerned for the children's safety if they were returned to respondent. Also, respondent had been receiving services from petitioner for three years and, given her minimal improvement over this significant length of time, it was unlikely that respondent would be able to gain the parenting skills she needed in the near future. Even if Nealy had testified that respondent's parenting skills had improved, the trial court did not clearly err in terminating respondent's parental rights pursuant to MCL 712.19b(g).<sup>1</sup> MCR 3.977(J); *In re Sours*, 459 Mich 624, 633; 593 NW2d 520 (1999).

With regard to Granberry and Chavez, respondent does not explain what other testimony these witnesses would have offered. Both were able to testify about their observations at the visitations and their opinions of respondent's parenting skills. Granberry's and Chavez's testimony was substantially similar. They both saw limited progress in the appropriateness of respondent's parenting skills over the past six months to one year, but neither believed that respondent was capable of parenting on her own and would not recommend returning the children to respondent unsupervised. In fact, Granberry's and Chavez's testimony was substantially similar to that of the prosecution's witness. Given their testimony, and the absence of any indication that the time restrictions precluded respondent from eliciting any favorable evidence, we cannot conclude that respondent's substantial rights were affected by the trial court's decision to limit the length of Granberry's and Chavez's testimony.

Affirmed.

/s/ Janet T. Neff  
/s/ Michael R. Smolenski  
/s/ Michael J. Talbot

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<sup>1</sup> Where a trial court articulates multiple grounds for terminating parental rights, upholding the trial court's findings with regard to one of those grounds is sufficient to affirm the trial court's decision. See *In re Powers*, 244 Mich App 111, 118; 624 NW2d 472 (2000).